



Cabinet 23 November 2011

Asset Management Plan: Victory Ground Community Transfer (Dec11/13)

1. Summary and Reasons for Recommendations

- 1.1 This paper considers the most effective way of delivering at the Victory Ground a new sports hall and pavilion for the community. The project will be delivered and managed by a new consortium of partners through a Community Interest Company comprising the principal funders and users, and taking advantage of grants from national sporting bodies.
- 1.2 The partners to the consortium are Victory Sports Ground Ltd, the operator of the grounds since 2001, Bury St Edmunds Cricket Club and South Lee School. The facilities will be used both by the school and partner clubs and will also be made available to the community.
- 1.3 The sports ground is owned by the Borough Council and has been successfully leased to, and managed on its behalf, by Victory Sports Ground Ltd since 2001. However, ownership of the freehold of the grounds, rather than a lease, will facilitate the future success of the new sports hall and grounds. The partners have already generated significant external funding and have their own resources to build the planned new facilities. A planning application is to be submitted shortly.
- 1.4 The request to purchase the freehold interest enables additional funding applications to be made to further enhance the development programme and continue to improve the well-used facilities. There may also be opportunities to increase the range of sports activities using additional sources of external funding.
- 1.5 A sale to the Community Interest Company is in line with the Borough Council's policy of community ownership of assets in the Borough and the aspirations of Government in the draft Localism Bill.

2. Recommendations

2.1 It is **RECOMMENDED** that:-

- (1) the Council sells the freehold interest of the Victory Sports Ground to the partnership comprising Victory Sports Ground Ltd, Bury St Edmunds Cricket Club and South Lee School;
- (2) the freehold interest be sold under the provisions of community management and ownership of assets, based on a percentage of market value, at £100,000;
- (3) a covenant, which restricts the uses of the grounds to community and recreational only, be imposed on the sale;

- (4) the legal agreements include conditions for the completion of a community use agreement and planning consent for the new facilities being obtained; and
- (5) the Corporate Director for Community, in consultation with the Portfolio Holder for Asset Management, be given delegated powers to enter into the sale to the new company once the company has been created and planning permission obtained.

3. Corporate Objectives

3.1 The recommendations meet the following, as contained within the Corporate Plan:-

- (a) Corporate Priorities: *'To improve the safety and well being of the Community'
To raise Corporate Standards and efficiency'; and*
- (b) Cabinet Commitments: *'Shape the future development of the Borough and the wider area'*
- (c) Vision 2025: St Edmundsbury will be a place which: *where the wide range of accessible leisure and cultural facilities on offer provide opportunities for the community.*

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4. Key Issues

4.1 Background

- 4.1.1 In 2009, the Borough Council received a joint proposal from South Lee School and the Victory Sports Ground Ltd to enhance the Victory Sports Ground in Bury St Edmunds by means of the provision of a new sports hall and pavilion. The sports ground is owned by the Borough Council and had been successfully leased to, and managed on its behalf by, Victory Sports Ground Ltd since 2001.
- 4.1.2 The current pavilion and changing rooms are in need of replacement which, if not carried out as part of this new facilities project, will be a Borough Council liability to replace. Plans for the new facilities include a new pavilion/clubhouse/function space overlooking both cricket areas and with 4 changing rooms below. In addition, there would be a 4/5 Badminton court-sized Sports Hall with 2 adjoining changing rooms. The proposed investment would be around £1.8 million. The project is being developed by a project group consisting of Victory Sports Ground Ltd, South Lee School and Bury St Edmunds Cricket Club. South Lee School is providing £1.5 million. Bury St Edmunds Cricket Club is contributing £250,000 through external funding from the English Cricket Board. Illustrative drawings form Appendix 1. An additional £150,000 can be generated by a Borough Council bid to Sport England to support the project.
- 4.1.3 Currently the ground hosts cricket, croquet, tennis and football and holds regional tennis tournaments and major cricket events. The Borough Council grant aids the Victory Sports Ground. The grant in 2011/2012 was £45,250.
- 4.1.4 On 21 October 2009 Cabinet considered Report A255 and approved the allocation of £25,000 (minute 72(2) refers) to the Victory Sports Ground Ltd as its contribution for the costs of removing the existing pavilion and working with partners to secure a significant development to build a new sports hall and pavilion on the Victory Sports Ground in Bury St Edmunds. It was also resolved that the Borough Council work in a partnering arrangement with South Lee School and Victory Sports Ground Ltd.
- 4.1.5 The Borough Council's financial contribution would lever in additional funding from external sources. The partnering arrangement was approved conditional on:-
- (a) an agreement being reached with Victory Sports Ground Ltd that, following the construction of any new facilities, its revenue grant from the Borough Council be reduced by way of a mechanism linked to increases in income;
 - (b) Victory Sports Ground Ltd and South Lee School obtaining sufficient funding to proceed with the scheme;
 - (c) the satisfactory completion of the necessary legal agreements;
 - (d) planning consent being obtained; and
 - (e) the completion of a community use agreement with South Lee School.
- 4.1.6 A range of additional funding bids are also in progress including Suffolk Environmental Trust (SET) and there has recently been an indication that a further £50 to 150,000 could be made available under the "Inspired Facilities" banner of Sport England. This would require the project to be on site within 6 months and completed and open to the public within 18 months of receiving an award. A bid will be submitted once planning permission for the new facilities has been obtained. Sport England has advised that it may be more financially beneficial for the Borough Council to submit the funding

application initially and pass the benefit of the grant to the new owners which the consortium partners have agreed in principle.

- 4.1.7 It was initially envisaged that the existing lease arrangement would be varied to give security for South Lee School, who were making the largest financial contribution (£1.5 million), while protecting the current sporting interests on the ground. This would be a complex arrangement and did not take into account the full asset management options appraisal, or the Borough Council's commitment to consider community ownership and management of assets.

4.2 Partnership structure

- 4.2.1 The proposed partnership structure is shown in Appendix 2. The Community Interest Company (CIC) will be the Victory Sports Ground Limited, whose board will include representatives of the Cricket Club and South Lee School. The Borough Council has also been invited to be represented on the board. The CIC would own the freehold of the Victory Ground. The current lease would be surrendered and new 999 year leases granted by the company to the Cricket Club and South Lee School.

- 4.2.2 Additionally, a new shorter lease would be granted to the croquet club and other clubs would be able to have hire agreements, channelled through a formal users group. The Tennis Club does not have a lease and will be a facility user as will the football and hockey clubs. A separate ground management company is intended to be set up as part of the CIC structure.

- 4.2.3 Community Interest Companies are a new type of company introduced in 2005, designed for social enterprises that want to use their profits and assets for the public good. CICs are intended to be easy to set up, with all the flexibility and certainty of the company form, but with special features to ensure that they are working for the benefit of the community and not purely for private advantage. This is achieved by a "community interest test" and "asset lock", which ensure that the CIC is established for community purposes and the assets and profits are dedicated to these purposes. Registration of a company as a CIC has to be approved by the Regulator, who also has a continuing monitoring and enforcement role.

- 4.2.4 A CIC has no charitable status, even if their objects are entirely charitable in nature. Consequently, there will be no tax advantages falling to the new CIC. This is no change from the current limited company status of Victory Sports Ground Limited and South Lee School. There is a clear assurance of a not-for-profit distribution status. CICs cannot be politically motivated, nor set up to serve an unduly restrictive group. As the assets are tied to the proposed CIC, this is an additional safeguard to ensure that the Victory Ground will remain in use as a high quality sports venue, in addition to the legal restrictions put on the community transfer.

4.3 Options appraisal: Community Transfer

- 4.3.1 It is proposed to transfer the Victory Ground to the partnership, which will ensure its operation as a sports ground in perpetuity. A similar community transfer has been a great success for Bury St Edmunds Rugby Football Club, which is cited as a national example of good practice by Sport England. This transfer includes provisions which act as a total disincentive to any activities other than sport and recreation (100% overage provisions). The partners have no objections to a similar control being imposed on the CIC in respect of the Victory Ground, which will act as a safeguard to the playing fields continuing to be a high quality sports facility.

4.3.2 A key priority for the Borough Council is to ensure that there is community use of the new facilities, and the partnership is supportive of this. The facilities would be available for community use during evenings, weekends and school holidays. South Lee School intends to operate the sports hall based on open access club activity and providing for a range of different sports and activities.

4.3.3 By exploiting full use of the new facilities by the school, clubs and the community, it is anticipated that additional revenue can be generated through the CIC. Victory Sports Ground Ltd has successfully kept running costs low whilst maintaining the ground at a high standard. As part of the negotiations around this project, the Borough Council has discussed the need to reduce the annual revenue grant. It will stay in place until such time as the income from the new facilities reduces the need for the support. The partners are aware of this.

5. Other Options considered

5.1 A full asset management review has been undertaken in consideration of this project. The Borough Council includes community management and ownership of assets as part of its option appraisal process. A summary of the options appraisal is contained in Appendix 3. It includes the options of:-

- (1) no change;
- (2) dispose of asset: the freehold as a community transfer, freehold as an open market sale or disposal by a long leasehold interest; and
- (3) work in partnership – the option to dispose as a community transfer is already set in the context of working in partnership.

5.2 The overall conclusion of the options appraisal is that a freehold sale is the preferred option for disposal, on the condition that effective safeguards can be put on the transfer and that the sale will be to a CIC represented by the funding partners for the new facility. Associated community use agreements will ensure that all the sports interests continue to be represented at the Victory Ground.

5.3 The proposed sale price would be in accordance with a community transfer disposal.

6. Community impact *(including Section 17 of the Crime and Disorder Act 1998 and diversity issues)*

6.1 General

6.1.1 The scheme offers increased opportunities for sporting participation, which will address an identified community need. An assessment of this need was presented in Paper A255 in October 2009.

6.1.2 The community use will be a significant element of the use of the new sports hall.

6.2 Diversity and Equality Impact

6.2.1 All the clubs using the facility will have an open access policy enabling all in the community to participate as will be required by the individual sports governing bodies.

<p>7.</p> <p>7.1</p> <p>7.2</p> <p>7.3</p>	<p>Sustainability Impact <i>(including environmental or social impact on the local area or beyond the Borough)</i></p> <p>The project provides sporting infrastructure needed in the locality demonstrated by the Victory Ground's use over the years, which this proposal enhances.</p> <p>The project retains green space, albeit for pitch use and the new sports hall and pavilion will be constructed to high environmental standards.</p> <p>Parking issues have been raised consistently. Parking at the ground will be greatly improved when the new facilities are completed.</p>
<p>8.</p> <p>8.1</p> <p>8.2</p>	<p>Consultation</p> <p>The project partners are consulting and involving other users and potential future users and seek to maintain good relationships with local residents. Local residents and the Bury St Edmunds Town Council will be consulted on any planning application for the new buildings. It is proposed that the CIC carries out public consultation similar to the public consultation held in Moreton Hall, Bury St Edmunds for the Bury Community Football Project and partners have requested the Borough Council's guidance with this process.</p> <p>The benefit of this scheme to the Borough Council is that it provides additional facilities for community use. In assessing the need and potential usage of a facility, consultation has taken place with Sport England, Suffolk Sport, English Cricket Board, the Football Foundation and Abbeycroft Leisure.</p>
<p>9.</p> <p>9.1</p> <p>9.2</p> <p>9.3</p> <p>9.4</p> <p>9.5</p> <p>9.6</p>	<p>Resource implications <i>(including asset management implications)</i></p> <p>The total cost of the scheme is estimated to be £1.8 to 1.9 million. The project is identified for external funding from the English Cricket Board. Officers are negotiating with Sport England in respect of their "Inspired facilities" funding. Other national sports funding bodies might also contribute, providing the range of sports and leisure activities is accessible to users.</p> <p>In Report A255 a capital contribution of £25,000 towards the costs of removing the existing pavilion was approved. The financial support of the Borough Council is essential to the application for external funding.</p> <p>The costs of operating the new sports hall facility are to be met entirely by the partnership. There is no revenue implication for the Borough Council over and above the existing level of grant support.</p> <p>A freehold sale is the preferred option for disposal, on the condition that effective safeguards can be put on the transfer. The proposed sale price will be in accordance with a community transfer disposal. If the same precedent is used as the sale to Bury St Edmunds Rugby Club, the sale price would be half of the tenanted value, of £100,000. This will be the catalyst to an investment of £1.5 million by South Lee School.</p> <p>There will be a loss of rental income, of £11,460 per annum. The revenue implication of a sale is £3,000 per annum, based on interest on capital at 3%.</p> <p>Victory Sports Ground Ltd has successfully kept running costs low whilst maintaining the Ground at a high standard. As part of the negotiations around this project, the Borough Council has discussed the need to reduce the annual revenue grant. These negotiations will not progress until the new development is in place.</p>

10. Risk Assessment (*potential hazards or opportunities affecting corporate, service or project objectives*)

10.1 The following risks have been identified:

Risk area	Inherent level of Risk (before controls)	Controls	Residual Risk (after controls)
	High/Medium/Low		High/Medium/Low
The Council will lose control if it is not the landowner.	M	Council remains as landowner until the building contract is let & until community use & management agreements are in place. Council control will continue through the legal disincentives to any change of uses (100% coverage).	L
The Victory Sports Ground Ltd loses control.	M	The proposed Community Interest Company will include the major partners. New leases will be granted & hire agreements made for the range of sports using the grounds.	L
Public concern to the sale of the Victory Ground.	M	The CIC will represent all current users & the Council. The consultation will explain the advantages of long term investment for the community & the controls to protect it.	L
Abbeycroft sees the new sports hall as a threat to its trade.	M	Effective consultation with Abbeycroft. Clubs move from Bury Leisure Centre to new Victory Ground sports hall, which creates additional casual user space for the leisure centre, thus dovetailing the two facilities' programme of use.	L
Promises of already approved national grants are lost.	H	South Lee School, Victory Sports Ground Ltd & Bury Cricket Club must proceed with submitting a planning application with all due haste.	L
Planning permission might not be obtained, and additional facilities will not be built.	L	Effective pre-application discussions with LPA and broad consultation with the local community on the impact & the scale of the new hall & pavilion.	L
The sale does not go forward and the Council remains liable for maintenance of outdated pavilion and maintenance of the ground.	M	Council work closely with partners through all stages, to ensure a successful transfer.	L

11. Legal or policy implications
11.1 The proposal and asset transfer is in accordance with the Leisure Facilities Asset Management presented to Overview and Scrutiny Committee on 12 October 2011 (Paper C172)
11.2 There is already a restrictive covenant in place covering part of the Victory Ground. That covenant will run with the land when it is transferred to the CIC. In addition, an overage clause restricting the uses of all of the grounds will be imposed.
11.3 There are a number of issues that need to be addressed regarding covenants and leases to enable the freehold to be transferred. The Council is working in partnership with Victory Sports Club, as the Council has no rights to interfere with extant leases unless by agreement with the tenant.

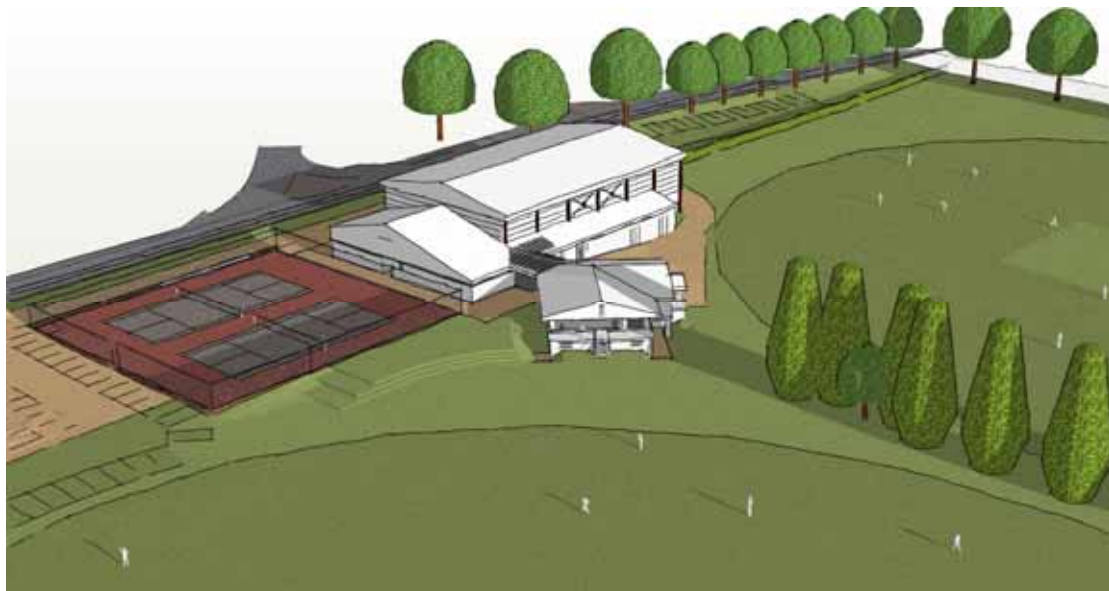
Wards affected	All Bury St Edmunds	Portfolio Holder	Corporate and Rural Affairs
Background Papers	Paper A255 Cabinet October 2009; Paper C172 Overview & Scrutiny Committee 12 October 2011	Subject Area	Property Management

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Victory Ground Facilities Project



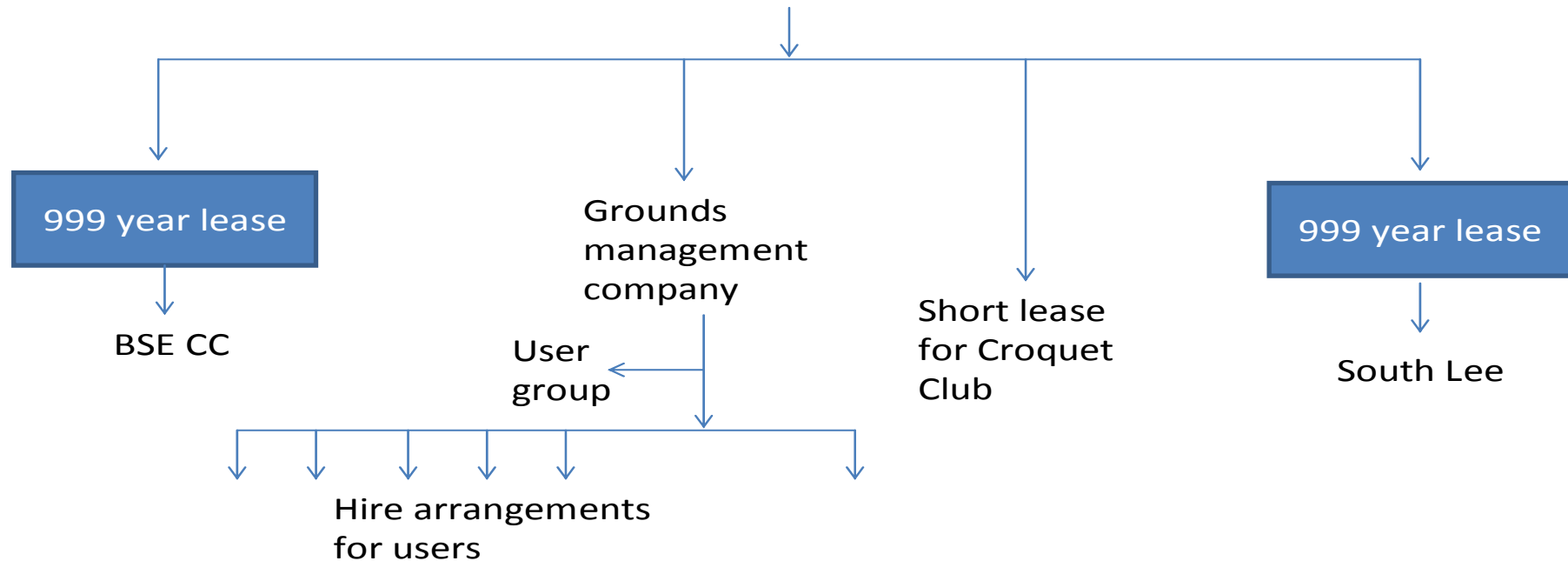
Victory Ground Facilities Project; pavilion, changing rooms and sports hall



The Victory Ground - Proposed partnership structure

Proposed new organisational structure

VSGL (as now but including South Lee/ SEBC/ BSE CC)



Options appraisal – Victory Ground

A. Property Information

The lease is for 30 years to Victory Sports Ground (Bury St Edmunds) Ltd. The rent, from 2001, is £11,460 p.a. South Lee School has a licence to use the grounds during term time. The Croquet Club has a short term lease and the Tennis Club is a user of the tennis courts only.

B. Option appraisal

The Asset Management Plan (AMP) options to consider are:

1. No change
2. Dispose of asset – freehold as a community transfer, freehold as an open market sale or dispose by a long leasehold interest
3. Work in partnership

Option 1 – no change

The current lease gives the Council a continuing income of around £12,000 p.a. for the next 20 years (2031). That income could increase at a steady rate if the Council chooses to instigate the annual reviews to RPI increases. By the end of the lease, that income would be around £25,000 a year.

This level of income is relatively insignificant in the overall revenue stream of the Council, but cannot be seen in isolation against the degree of grant support offered to the club (£45,000 in 2011).

In AMP terms, service return could be improved significantly if the club works more closely in partnership with the school. Financial return is unlikely to improve unless the club and school have the opportunity to generate more income through the new facilities, thereby reducing the Council's annual grant.

There is a potential maintenance liability for the existing dated pavilion and changing rooms, in that although it is the responsibility of the club to maintain, any extraordinary expenditure might fall to the Council to pay or share in the costs, if the club is unable to find funds. The estimated life of the pavilion is probably under 10 years.

Conclusion

No change is not the best option and will not free up the asset to allow investment using external sources which are unavailable to the Council. Therefore the Council needs to look at other options which either deliver better services or improved finances.

Option 2 – dispose of asset

There are three options to consider for the disposal of the Victory Ground:

2(a) Community transfer of freehold

The Council's AMP options appraisal include community management and ownership of assets. Community transfers are a principle aspiration of the government in the draft Locality Bill. A precedent for the community transfer of sports grounds has been set by the sale of Bury St Edmunds Rugby Club at 50% of the freehold tenanted value.

Local Authorities may dispose of land at a consideration that is less than the best that may reasonably be achieved, on grounds of economic, social and/or environmental well being of the area. A community transfer of the Victory Ground meets well being criteria.

In this case, the main purpose of considering a disposal is to facilitate the provision of the sports hall and new pavilion. Ownership of the land by a partnership of the club and the school will give the new Community Interest Company (CIC) more security and flexibility over and above that perceived by funders when there is only a long lease in place.

The partners have agreed to protect the Victory Ground for community use by way of an overage clause which restricts the use of the grounds as a sports ground. The overage will not apply to the actual site of the new sports hall, as it would be inequitable for the Council to obtain financial gain where the school has made a substantial investment. Additional safeguards are the actual structure of the CIC, which incorporates an "asset lock" (restrictions on the transfer of assets, to the extent that all assets, including profits or surpluses, are used for the benefit of the community). This would be reinforced by management and community use agreements. More than half of the Victory Ground already has the obligation on the Land Registry title of continued use as a high class sports ground.

Conclusion

A sale to a CIC will facilitate investment of the partners' own resources and external grants, and secure community use. It is the favoured option.

2(b) Dispose of asset at open market value

If the Council did not consider that there is any well being arising out of a community transfer, it could agree to sell the grounds at market value. Market value is estimated at around £200,000.

There is a sitting tenant and the Council could chose to sell the asset at auction, by tender, or by private treaty. It is thought that there could be a market at auction because the asset has a rising rent and a relatively short term for a ground lease.

However, if the Council withdrew its revenue support, the investment would be more risky to a potential private purchaser, which would depress value. A new owner would be unlikely to have the same community interests and it is unlikely that the sports hall and pavilion would be built. The external funding – based on community benefit – could also be withdrawn.

Conclusion

A sale to any party other than the school or the club would not assist the Council to further its corporate priority of improving well being, nor its long term vision of accessible leisure facilities for the community.

2(c) Disposal of a long leasehold interest

If a long lease is granted rather than the sale of the freehold, the Council would find itself in a similar situation in terms of low overall service and financial value of the asset. Management costs would continue and rents would remain modest. However, it is likely that with a sufficient length of lease, the school would have sufficient confidence to invest in the new sports hall.

Because of the involvement of both the club and the school, the new lease arrangements would be complex, to accommodate both the club's and the school's needs. Land would need to be made available to the school in order to give it sufficient security to commit to around £1.5 million investment in the sports hall. There would remain the perception with commercial funders that title is restricted and this may restrict access to funds in the future.

The Council would remain involved in the management of the leases.

Conclusion

There is no benefit to the Council in continuing to own the Victory Ground as an asset, providing community use can be secured through management and community use agreements.

Option 3 – Work in partnership with Victory Sports Ground Ltd and South Lee School

The option to dispose of the asset as a community transfer is already set in the context of working in partnership.

Overall Conclusions of the options appraisal

A freehold sale to the new CIC is the preferred option for disposal.

The proposed sale price should be in accordance with a community transfer disposal. If the same precedent is used as the sale to Bury St Edmunds Rugby Club, the sale price would be half of the freehold tenanted value (£200,000), say **£100,000**.

C. Disposal powers, s123 Local Government Act 1972 and wellbeing provisions

The General Disposal Consent 2003 (the Consent) gives authorities freedom to exercise discretion in the disposal of their land at less than the best price (s 123 of the Local Government Act 1972), on grounds of the promotion or improvement of economic, social and/or environmental wellbeing. A disposal includes any lease of over 7 years. If the amount of undervalue is less than £2 million, the authority can exercise the provisions of the Consent.

The Council is required to identify the amount of undervalue being proposed by the imposition of restrictions on the sale, in this case, the intention to prevent the CIC from using the grounds for anything other than recreation, sports and community uses.

The information required in determining whether the proposed land disposal falls within the provisions of the General Disposal Consent 2003 is:

(a) Unrestricted value – the best price reasonably obtainable in the market, including taking into account any additional amount which might reasonably be expected from a purchaser with a special interest, but also assuming that the restriction is not put on the sale.

The Unrestricted value is estimated at £200,000. In this case, as the 'special purchaser' is likely to be the proposed CIC, there is no additional value attributable to the market value.

(b) Restricted value – the market value having regard to the terms of the proposed transaction. This takes into account the effect on value of the proposed restriction limiting the uses of the site.

The Restricted value is £100,000.

(c) Voluntary Conditions – the value of voluntary conditions is assessed as the difference between these two values. This £100,000 could be treated as the direct or indirect benefit to the Council which can be assessed in monetary terms, particularly if with the success of the new facilities there is a gradual reduction in the Council's annual grant to the Victory Sports Club. It will assist in meeting the Council's long term aspiration of facilitating a wide range of accessible leisure and cultural facilities on offer for the community.

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26 October 2011